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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2009 AUG 26 A 10:28

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

AUG 26 2009

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
EHRENBURG IMPROVEMENT ASSOCIATION  
FOR A RATE INCREASE.

DOCKET NO. W-02273A-08-0251

PROCEDURAL ORDER

**BY THE COMMISSION:**

On May 15, 2008, Ehrenberg Improvement Association ("EIA" or "Company") filed the above-captioned rate application with the Arizona Corporation Commission ("Commission").

On March 6, 2009, Amended Rate Case Procedural Order was issued to govern the preparation and conduct of this Class C utility rate case proceeding. The hearing was set for August 24, 2009. A procedural schedule for the filing of testimony was set, and the Company was ordered to publish and mail public notice of the hearing and to file certification of publication and notice.

No intervention requests were filed.

On July 6, 2009, the Commission's Utilities Division ("Staff") filed its Staff Report on the application.

On July 20, 2009, the Company filed comments on the Staff Report. The Company did not file rebuttal testimony.

The hearing was convened as scheduled on August 24, 2009. Staff appeared through counsel. EIA did not appear. No members of the public appeared to provide public comment. Because the Company was not present at the hearing to provide evidence of the proper publication and mailing of public notice, and no certification of publication and mailing had been docketed, it could not be determined whether notice of the hearing had been accomplished. The hearing was therefore continued, and the timeclock for processing the application was suspended, pending a determination

1 of whether it would be necessary to re-order public notice and allow additional time for intervention  
2 requests to be filed.

3 On August 24, 2009, certification of publication of notice of the hearing was filed indicating  
4 that the Company caused notice of the hearing to be published in the *Parker Pioneer* on March 18,  
5 2009.

6 On August 25, 2009, certification of mailing notice of the hearing was filed indicating that the  
7 Company mailed notice of the hearing to its customers on March 11, 2009.

8 Public notice of the hearing was provided in accordance with the Amended Rate Case  
9 Procedural Order. Accordingly, it is appropriate at this time to set a date for continuation of the  
10 hearing.

11 IT IS THEREFORE ORDERED that the hearing in the above-captioned matter previously set  
12 to commence on August 24, 2009, is hereby **continued to October 22, 2009, at 10:00 a.m.**, or as  
13 soon thereafter as is practicable, at the Commission's offices, 1200 W. Washington Street, **Room**  
14 **100**, Phoenix, Arizona 85007.

15 IT IS FURTHER ORDERED that the timeclock in this matter is suspended pending the  
16 continuation of the hearing.

17 IT IS FURTHER ORDERED that:  
18

- 19 1) **Ehrenberg Improvement Association shall provide a witness (or witnesses) to**  
20 **testify in support of its application and to respond to questions regarding its**  
21 **application;**
  - 22 2) **Ehrenberg Improvement Association shall obtain legal counsel to represent it**  
23 **in this proceeding, or, alternatively, if Ehrenberg Improvement Association**  
24 **chooses not to be represented by counsel in this proceeding, shall have an**  
25 **officer of the Ehrenberg Improvement Association appear at the hearing to**  
26 **represent it, as allowed by A.R.S. Section 40-243(B);**
- 27  
28

- 1           3)       **If Ehrenberg Improvement Association chooses to have an officer appear at**  
2                   **the hearing to represent it, as allowed by A.R.S. Section 40-243(B), Ehrenberg**  
3                   **Improvement Association shall obtain a board resolution that indicates the**  
4                   **specific authorization of its chosen representative to represent it in this**  
5                   **proceeding;**
- 6           4)       **Ehrenberg Improvement Association shall file in this docket, no later than**  
7                   **October 1, 2009, a list of witnesses indicating the name or names of the witness**  
8                   **or witnesses who will appear at the hearing to testify in support of its**  
9                   **application; and**
- 10          5)       **Ehrenberg Improvement Association shall file in this docket, no later than**  
11                   **October 1, 2009, either a) a Notice of Appearance of Counsel, or b) a copy of a**  
12                   **board resolution that indicates the specific authorization of its chosen**  
13                   **representative to represent it in this proceeding; and**
- 14          6)       **If Ehrenberg Improvement Association fails to provide a witness and appear**  
15                   **at the hearing on its application, the application may be dismissed.**

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17       IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
18       Communications) continues to apply to this proceeding and shall remain in effect until the  
19       Commission's Decision in this matter is final and non-appealable.

20       IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
21       of the Arizona Supreme Court with respect to practice of law and admission *pro hac vice*.

22       IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
23       with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
24       Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation  
25       to appear at all hearings and procedural conferences, as well as all Open Meetings for which the  
26       matter is scheduled for discussion, unless counsel has previously been granted permission to  
27       withdraw by the Administrative Law Judge.  
28

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
2 pursuant to Rule 6(a) or (3) of the Rules of Civil Procedure.

3 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
4 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

5 DATED this 26<sup>th</sup> day of August, 2009.

6  
7  
8   
9 TEENA WOLFE  
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed  
12 this 26<sup>th</sup> day of August, 2009 to:

13 Christina Balvanz, President  
14 EHRENBURG IMPROVEMENT  
15 ASSOCIATION  
16 P.O. Box 891  
17 50078 Ehrenberg Parker Hwy, Suite 110  
18 Ehrenberg, Arizona 85334


Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, Arizona 85007

16 Paul Linker, Vice-President  
17 EHRENBURG IMPROVEMENT  
18 ASSOCIATION  
19 P.O. Box 901  
20 50078 Ehrenberg Parker Hwy, Suite 110  
21 Ehrenberg, Arizona 85334

Steve Olea, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.  
2200 N. Central Avenue, Suite 502  
Phoenix, Arizona 85004-1481

19 Luis Corral, Vice-President  
20 EHRENBURG IMPROVEMENT  
21 ASSOCIATION  
22 P.O. Box 313  
23 50078 Ehrenberg Parker Hwy, Suite 110  
24 Ehrenberg, Arizona 85334

By:   
Debra Broyles  
Secretary to Teena Wolfe

23 Dennis Morin, Director  
24 EHRENBURG IMPROVEMENT  
25 ASSOCIATION  
26 P.O. Box 7  
27 50078 Ehrenberg Parker Hwy, Suite 110  
28 Ehrenberg, Arizona 85334